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**TRANSMITTAL  
FORM**

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Total Number of Pages in This Submission

Application Number 10/058,025

Filing Date January 28, 2002

First Named Inventor Hirofumi Ito

Art Unit 2813

Examiner Name Tung T. Vo

Attorney Docket Number 13888

**ENCLOSURES (check all that apply)**☐ Fee Transmittal Form☐ Fee Attached☐ Amendment / Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/  
Incomplete Application☐ Reply to Missing Parts  
under 37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a  
Provisional Application☐ Power of Attorney, Revocation  
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s)☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board  
of Appeals and Interferences☐ Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s)  
(please identify below):

Response to Restriction Requirement

**Remarks****SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm

Dowell &amp; Dowell, P.C.

Signature

Printed Name

Ralph A. Dowell

Date

11/30/2004

Reg.  
No.

28868

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Attorney Docket No. 13888

In re application of Hirofumi Ito et al.

Serial No.: 10/056,025

Filed : January 28, 2002

For : IMAGE GENERATING METHOD,  
APPARATUS AND SYSTEM USING CRITICAL  
POINTS

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) Art Unit: 2613

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) Examiner: Tung T. Vo  
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RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement dated November 2, 2004,  
Applicant hereby provisionally elects Group I – Claims 1-6, 12-16 and 26-27. The  
election is made with traverse.

The Examiner has indicated that Claims in Group II, III, IV and I are related as  
combination and sub-combination. The Examiner has not made reference to Group V,  
however we anticipate that the Examiner intended to include this Group with the others  
noted above.

The traversal of the restriction requirement is based on a lack of a  
showing in the Restriction Requirement of the serious burden that would be imposed if  
all the claims were examined in a single application. It is respectfully submitted that the

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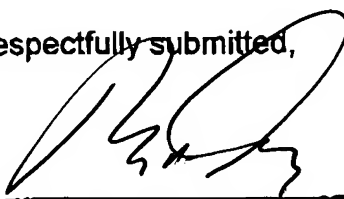
search and examination of the claim Groups could be made without serious burden. MPEP § 803 indicates that "if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions". Specifically, although it is alleged that the distinct inventions "have acquired a separate status in the art as shown by their different classification," MPEP §808.02(1) requires not only that the distinct inventions have acquired separate status in the art by showing their separate classification, but also that "a separate field of search" is required. It is respectfully submitted that no such showing is made out in the Restriction Requirement. To the contrary, although Applicant's counsel will not claim to be skilled in using the Manual of Classification, it appears that it would be necessary to search the claims in the Groups in each of the classes/subclasses listed on page 2 of the Restriction Requirement to fully search these inventions. For this reason, it does not appear that a prima facie showing of the need for restriction of the claims in Groups I through V has been established, and in the absence of such a showing, Applicant traverses and requests reconsideration of the restriction requirement.

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Should the Examiner believe anything further is desirable in order to place the application in better condition for examination on the merits and allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

By



Registration No. 26868  
Ralph A. Dowell  
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Dated: 11/30/2004

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